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THE SITUATION IN CENTRAL AMERICA:
PROCEDURES FOR THE ESTABLISHMENT OF
A FIRM AND LASTING PEACE AND PROGRESS
IN FASHIONING A REGION OF PEACE, FREEDOM,
DEMOCRACY AND DEVELOPMENT

SECURITY COUNCIL
Fifty-second year

Identical letters dated 16 January 1997 from the Secretary-General addressed to the President of the General Assembly and to the President of the Security Council

I have the honour to transmit herewith the texts of two agreements pertaining to the Guatemalan peace process, which were signed by the Peace Commission of the Government of Guatemala (COPAZ) and the General Command of the Unidad Revolucionaria Nacional Guatemalteca (URNG) under the auspices of the United Nations in December 1996.

The Agreement on Constitutional Reforms and the Electoral Regime (annex I) was signed in Stockholm on 7 December 1996 in the presence of the Swedish Minister for International Cooperation, Immigration and Asylum Policy, Mr. Pierre Schori, and senior officials of the countries that are members of the Group of Friends of the Guatemalan Peace Process (Colombia, Mexico, Norway, Spain, the United States of America and Venezuela). Also present was a delegation of personalities representing a broad array of sectors of Guatemalan society.

This Agreement contains a series of proposals for constitutional reform that the Government of Guatemala is to place before the Congress within 60 days of the signing of the Agreement on a Firm and Lasting Peace, which occurred on 29 December 1996. The proposals focus mainly on the recognition of the identity and rights of indigenous peoples and the mandate and structure of the country's security forces. The Agreement also provides for the establishment by the Supreme Electoral Tribunal of an Electoral Reform Commission to review and modernize the various stages of the electoral process.

The Agreement on the Basis for the Legal Integration of URNG (annex II) was signed by the Parties in Madrid on 12 December 1996, in the presence of the Spanish Foreign Minister, Mr. Abel Matutes, senior representatives of the Group of Friends and the same delegation of Guatemalan personalities that attended the signing ceremony in Stockholm.

This Agreement outlines a comprehensive programme for the integration of URNG members into Guatemalan society. It provides, inter alia, for the establishment of a joint Government/URNG commission to coordinate and facilitate integration projects and contains provisions to be included in a National Reconciliation Act that will constitute the legal framework for this integration.

I should be grateful if you could issue the present letter and its annexes as a document of the General Assembly, under agenda item 40, and of the Security Council.

(Signed) Kofi A. ANNAN

ANNEX I

[Original: Spanish]

Agreement on Constitutional Reforms and the Electoral Regime

I. CONSTITUTIONAL REFORMS

Whereas the Constitution in force since 1986 sets forth the responsibility of the State, as the expression of the legal and political organization of society, for promoting the common good and the consolidation of the rule of legality, security, justice, equality, freedom and peace, and defines as a central concern the promotion of the full enjoyment of human rights within a stable, permanent and popular institutional order in which governed and government act with absolute adherence to the law,

Whereas in the Oslo Agreement of 30 March 1990, the delegation of the National Reconciliation Commission of Guatemala (CNR), acting with the full support of the Government of Guatemala, and the delegation of the Unidad Revolucionaria Nacional Guatemalteca (URNG), acting with the full support of its General Command, placed on record their express determination to find ways to solve the nation's problems peacefully by political means,

Whereas on 24 April 1991, the process of direct negotiation began between the Government of the Republic of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG), the Parties having pledged that the political agreements reached would reflect the legitimate aspirations of all Guatemalans and would be drawn up in accordance with the constitutional framework in force and with the El Escorial agreements, in which URNG and the country's political parties had pledged to promote such reforms of the Political Constitution of the Republic as were necessary for the reconciliation of all Guatemalans, the ending of the internal armed conflict, the peaceful solution of the nation's problems by political means and full respect for and application of the law,

Whereas the constitutional reforms contained in this Agreement constitute a substantive, fundamental basis for the reconciliation of Guatemalan society within the framework of the rule of law, democratic coexistence, full observance of and strict respect for human rights, an end to impunity and, at the national level, the institutionalization of a culture of peace based upon mutual tolerance and respect, shared interests and the broadest possible public participation in all structures of power,

Whereas the above-mentioned reforms will contribute to political stability, the strengthening of civilian power and the agreed redefinition of the functions of the armed forces for the new era in the country's history which will begin with the signing of the Agreement on a Firm and Lasting Peace,

Whereas the above-mentioned reforms also systematize and develop the spirit and the letter of the commitments signed on institutional, political, economic,

social and ethnic issues, on human rights and their strict observance and on efforts to combat impunity,

Whereas, at the national level, recognition of the identity of indigenous peoples is of fundamental importance for building national unity based on respect for and the exercise of the political, cultural, economic and spiritual rights of all Guatemalans, as well as on the fulfilment of their duties,

Whereas the agreed constitutional reforms are a historic step which, at the institutional level, guarantees and ensures the building of a just peace and democratic stability by political and institutional means, within the framework of the political Constitution of the Republic,

The Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG), hereinafter referred to as "the Parties", have agreed as follows:

1. The Government of the Republic shall place before the Congress of the Republic the draft constitutional amendments contained in sections A and B of this Agreement 60 days after its entry into force.

2. It is understood that, where the text of a proposed constitutional amendment is not expressly drafted and the number of the corresponding article is not indicated, its drafting and numbering will be left to the legislative branch.

3. The Parties request the Congress of the Republic to promulgate or amend ordinary legislation, as necessary, to adapt it to the provisions agreed to by the Parties in the Peace Agreements and to the constitutional amendments contained in this Agreement; and also, if necessary, to agree to any other constitutional or legal amendments that may be required to maintain consistency and compatibility with the reforms proposed by the Parties.

A. Constitutional reforms contained in the Agreement on Identity and Rights of Indigenous Peoples

4. This Agreement provides for constitutional recognition of the identity of the Maya, Garifuna and Xinca peoples and, from that standpoint, of the need to define and characterize the Guatemalan State as being one of national unity and multi-ethnic, multicultural and multilingual in nature. It is not just a matter of recognizing the existence and identity of various ethnic groups, as article 66 of the Constitution currently does, but of recognizing that the very make-up of society, without prejudice to the unity of the nation and the State, is characterized in that way; this also entails recognizing the specific nature of indigenous people's spirituality as an essential component of their world view and of the transmission of their values, and granting official constitutional recognition to indigenous languages as one of the mainstays of national culture and as a vehicle for acquiring and transmitting indigenous people's world view, knowledge and cultural values.

Identity of the Maya, Garifuna and Xinca peoples

5. Sponsor in the Congress of the Republic express constitutional recognition of the identity of the Maya, Garifuna and Xinca peoples, within the unity of the Guatemalan nation.

List of the languages existing in the country

6. Sponsor in the Congress of the Republic an amendment to the Constitution incorporating in its article 143 a list of all languages existing in the Republic, which the Government is required to recognize, respect and promote.

Official recognition of indigenous languages

7. Sponsor in the Congress of the Republic, in accordance with the conclusions of the Official Recognition Commission established under the Agreement on Identity and Rights of Indigenous Peoples, the necessary constitutional amendments arising out of the Commission's work.

Spirituality of the Maya, Garifuna and Xinca peoples

8. Sponsor in the Congress of the Republic the amendment of article 66 of the Constitution to stipulate that the State recognizes, respects and protects the various forms of spirituality practised by the Maya, Garifuna and Xinca peoples.

Definition and characterization of the Guatemalan nation

9. Sponsor in the Congress of the Republic an amendment to article 140 of the Constitution to define and characterize the Guatemalan nation as being one of national unity and multi-ethnic, multicultural and multilingual in nature.

B. Constitutional reforms included in the Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society

10. Within the framework of the modernization of State institutions, the Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society provides for constitutional reforms with respect to the Congress of the Republic, the Judiciary, the functions of the President of the Republic, and the Guatemalan armed forces. The aim is not to propose case-by-case measures, but to reformulate the whole conception of State organs and institutions with a view to strengthening democracy in line with present-day constitutional trends.

Congress of the Republic

11. With regard to the Congress of the Republic, present conditions have prompted various social sectors to raise the issue of the number of deputies, with a view to preventing their numbers from exceeding a predetermined reasonable level while preserving their representativeness as a characteristic expression of democracy. In addition, that representativeness raises the need

for an equally reasonable turnover of deputies; accordingly, it is envisaged that deputies will not be able to be re-elected for more than two consecutive terms.

Fixed number of deputies

12. Sponsor in the Congress of the Republic an amendment to article 157 of the Constitution to maintain the number of deputies in the Congress at the current level.

13. An amendment to the same article, stating that deputies cannot be re-elected for more than two consecutive terms, should also be sponsored, so as not to prevent parliamentary careers but at the same time to permit a turnover of political leadership in the Congress.

Administration of justice

14. The integrity and efficiency of the judicial function fulfil the task of guaranteeing the rules of social relations, a guarantee which can become operative only if there is security, as manifested in the substantive rights prescribed by law, the fair settlement of disputes, universal respect for procedural norms, the punishment of offenders and reparation for injury.

15. That is why it is important to strengthen the judicial function so that, within the constitutional framework that provides general guarantees for the administration of justice, free access to the administration of justice, regardless of financial means, can become a reality, based, in particular, on the multi-ethnic, multicultural and multilingual nature of Guatemala; the impartiality and independence of judges; the reasonable and prompt resolution of social conflicts; the provision of alternative mechanisms for resolving such conflicts; and a career judicial service which strives to ensure the professional excellence of judges, as well as proper recognition of the dignity of their profession and of their rights and responsibilities with regard to training and advanced training, without prejudice to a disciplinary system which, while respecting the rights of defence and due process, guarantees the proper exercise of the judicial function, with the power to impose penalties being exercised solely by the judiciary.

Guarantees for the administration of justice

16. Sponsor in the Congress of the Republic an amendment to article 203 of the Constitution which would make an initial express reference to guarantees of the administration of justice and, as such, include: (a) free access to the administration of justice in the person's own language; (b) respect for the multi-ethnic, multicultural and multilingual nature of Guatemala; (c) defence counsel for those who cannot afford it; (d) impartiality and independence of judges; (e) reasonable and prompt resolution of social conflicts; and (f) provision of alternative conflict-resolution mechanisms. In addition, the present content of article 203 should be reproduced in summarized form in a separate paragraph.

Career judicial service

17. Sponsor in the Congress of the Republic the amendment of articles 207, 208 and 209 of the Constitution, which would include a reference to the Act on the Career Judicial Service and establish its content as follows:

(a) Rights and responsibilities of judges, dignity of the profession and adequate remuneration;

(b) System of appointments and promotions of judges based on public competitive examinations designed to ensure professional excellence;

(c) Right and duty to pursue judicial training and advanced training;

(d) Disciplinary system, with pre-established guarantees, procedures, levels of jurisdiction and penalties, and the principle that a judge or magistrate can be investigated and punished only by his peers.

Personnel of the judiciary

18. Sponsor in the Congress of the Republic an amendment to article 210 of the Constitution eliminating the guarantee set forth in the second paragraph, since its content would be subsumed under the three preceding articles. Article 210 should refer only to personnel of the judiciary who are not judges or magistrates.

National Civil Police

19. Sponsor in the Congress of the Republic the inclusion of an article in the Constitution defining the functions and main characteristics of the National Civil Police as follows:

> "The National Civil Police is a professional and hierarchical institution. It is the only armed police force with national jurisdiction and its function is to protect and safeguard the exercise of the rights and freedoms of individuals; to prevent, investigate and combat crime; and to maintain public order and internal security. It shall be under the control of civilian authorities and shall show strict respect for human rights in carrying out its functions.
>
> "The law shall regulate the requirements and procedures for admission to the police profession, as well as promotions, advancement, transfers, disciplinary action against police officials and employees and other questions related to the functioning of the National Civil Police."

Guatemalan armed forces

20. In a democratic society, the typical functions of the armed forces relate to the defence of sovereignty and territorial integrity; any other function is atypical and exceptional; like any other government institution, their exercise of other functions must take place in a context of subordination to lawfully constituted authority and be preceded by a decision of and be monitored by the

lawfully constituted authorities of the State within their specific sphere of competence. Any exceptional function of the armed forces must therefore be decided by the President of the Republic, as Head of State and Commander-in-Chief of the Armed Forces, and be subject to oversight by the Congress of the Republic.

21. Moreover, like other Ministers of State, the Minister of Defence is called upon to perform policy-making functions which do not necessarily require that he have a strictly technical background. As a result, the current requirement that he be a member of the armed forces is not justified. In keeping with present-day conceptions of the organization of the judiciary, exclusive military jurisdiction in criminal matters should be confined to strictly military crimes and misdemeanours.

Constitution, organization and functions of the armed forces

22. Sponsor in the Congress of the Republic an amendment to article 244 of the Constitution so that it reads as follows:

> "Article 244. Constitution, organization and functions of the armed forces. The Guatemalan armed forces are a permanent institution in the service of the nation. They are unique and indivisible, essentially professional, apolitical, obedient and non-deliberative. Their function is to defend the sovereignty of the State and the integrity of its territory. They consist of land, sea and air forces. Their organization is hierarchical and is based on the principles of discipline and obedience."

Functions of the President of the Republic

23. Sponsor in the Congress of the Republic an amendment to article 183 of the Constitution which would include the following:

> "Delete paragraph (r) of article 183 and amend the wording of paragraph (t) to read: 'To grant special pensions'".

24. With regard to the functions of the President of the Republic, it has been agreed to sponsor the inclusion of the following in article 183:

> "Where the normal means for the maintenance of public order and internal peace have been exhausted, the President of the Republic may, on an exceptional basis, use the armed forces for this purpose. The action of the armed forces shall always be temporary, shall be conducted under civilian authority and shall involve no limitation whatsoever on the exercise of the constitutional rights of citizens.
>
> "To order these exceptional measures, the President of the Republic shall issue the corresponding agreement. The action of the armed forces shall be limited to such time and modalities as are strictly necessary and shall cease as soon as its purpose has been achieved. The President of the Republic shall keep the Congress informed of the operations of the armed forces, and the Congress may at any time order that such operations shall cease. In any event, within 15 days following the end of such operations,

the President of the Republic shall submit to the Congress a detailed report on the action of the armed forces."

Duties and powers of the President over the armed forces

25. Sponsor in the Congress of the Republic an amendment whereby the final sentence of paragraph (b) of article 246 of the Constitution, which reads: "He may, likewise, approve special pensions", would be deleted.

26. Also sponsor the redrafting of the first paragraph of article 246 so that it reads as follows:

"The President of the Republic is the Commander-in-Chief of the Armed Forces and shall issue his orders through the Minister of National Defence, whether the Minister is a civilian or a member of the armed forces."

Military courts

27. Sponsor in the Congress of the Republic the total redrafting of article 219 of the Constitution, so that it reads as follows:

"Article 219. Military courts. The military courts shall try the crimes and misdemeanours specified in the Military Code and in the corresponding regulations. Ordinary crimes and misdemeanours committed by military personnel shall be tried and judged by the ordinary courts. No civilian may be judged by military courts."

II. ELECTORAL REGIME

Whereas:

Elections are the essential instrument for the transition which Guatemala is currently making towards a functional, participatory democracy,

For that purpose, Guatemala has, in the form of the Supreme Electoral Tribunal, an independent institution of recognized impartiality and prestige which is a key element in safeguarding and strengthening the electoral regime,

It is necessary to increase citizens' participation in the electoral process and to overcome the phenomenon of abstentionism in order to strengthen the legitimacy of public authority and consolidate a pluralistic, representative democracy in Guatemala,

The level of electoral participation is the result of many different social and political factors, including the impact of civil institutions on the daily lives of Guatemalans, the capacity of political parties to fulfil people's expectations, the degree of organized participation by citizens in social and political life and their level of civic education, all of which are elements which the package of peace agreements already signed seeks to strengthen.

The electoral process is marred by specific shortcomings which impede the effective enjoyment of the right to vote. These shortcomings include citizens' lack of reliable documentation, the absence of technically prepared electoral rolls, difficulty of access to registration and voting, lack of information and the need for greater transparency in election campaigns.

This Agreement seeks to promote legal and institutional reforms which will remedy those shortcomings and constraints and, together with the other peace agreements, help to improve the electoral regime as an instrument of democratic transformation.

The Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (hereinafter referred to as "the Parties") have agreed as follows:

Electoral Reform Commission

1. Recognizing the role of the Supreme Electoral Tribunal in safeguarding and strengthening the electoral regime, the Parties agree to request the Tribunal, through this Agreement, to establish and preside over an Electoral Reform Commission charged with publishing a report and making a series of recommendations on electoral reform and the corresponding legislative amendments.

2. In addition to its Chairman, who would be appointed by the Supreme Electoral Tribunal, the Commission would consist of one representative and one alternate for each of the political parties with representation in Parliament and two members and their respective alternates to be appointed, at its discretion, by the Supreme Electoral Tribunal. The Electoral Reform Commission would receive all such support and advisory services as it considered necessary.

3. It is recommended that the above Commission be constituted no later than three months after the signing of the Agreement on a Firm and Lasting Peace and that it complete its work no later than six months from the date of its establishment. In order to achieve its objectives, the Commission would have to encourage an extensive pluralistic debate on the subject of Guatemala's electoral regime.

4. As a minimum, non-restrictive agenda for modernizing the electoral regime, the Commission would consider the following items:

(a) Documentation;

(b) Electoral rolls;

(c) Voting;

(d) Transparency and publicity;

(e) Information campaign;

(f) Institution-building.

Basic proposals

5. In connection with these items, the Parties agree that, in keeping with the efforts being made to strengthen the electoral process, they would put forward for consideration by the Electoral Reform Commission the following basic proposals:

Documentation

6. Given that lack of reliable documentation is an obstacle to the implementation of the various phases of the electoral process, the Parties consider that it would be useful to introduce a single identity document, with a photograph of the holder, which would replace the present local identity card and which, as an identification document for all civil matters, would also serve for elections. Such a document would be issued by the Supreme Electoral Tribunal, through the National Registry. To this end, the appropriate reforms of the Elections and Political Parties Act and the Civil Code would be undertaken.

7. As a contribution to the next general elections, it would be extremely important and useful for all citizens to use the new single identity document.

Electoral rolls

8. Bearing in mind the need to steadily improve the electoral rolls which the Supreme Electoral Tribunal is responsible for compiling and updating, the Parties consider that it would be useful for the Electoral Reform Commission to study ways of ensuring that deaths and changes of address are recorded systematically.

9. In order to establish electoral districts within each municipality, with their own electoral roll, where necessary, to facilitate voting, it is proposed that the Commission should recommend the reform of the Elections and Political Parties Act to ensure that the electoral rolls are based on place of residence.

10. The Electoral Reform Commission should examine ways of facilitating citizens' access to voter registration centres and of ensuring that the Supreme Electoral Tribunal has the resources to expand its coverage in rural areas.

11. Taking into account the new functions of the Guatemalan armed forces, as set forth in the Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society, and considering the Parties' shared objective of promoting the broadest possible participation of citizens in the electoral process, the Commission is invited to examine the desirability of granting, in the future, members of the Guatemalan armed forces on active duty the political right of voting in Guatemalan elections.

Voting

12. It is necessary to facilitate citizens' access to voting centres. To that end, the Parties propose that, based on the electoral rolls, the Supreme Electoral Tribunal, in consultation with political parties, should identify the

places in which voting centres are to be set up within municipalities; such places would be those which have large numbers of residents living a long way from the municipal capital and which are also accessible to party poll-watchers and electoral observers. Voting centres should correspond to a municipal electoral district with its own electoral roll, thereby avoiding any problems which might otherwise arise from having a common municipal electoral roll for all voting centres.

13. The Electoral Reform Commission should study and propose the necessary legislative and/or administrative changes to facilitate the participation of internal migrant workers in elections, which currently coincide with the period of seasonal migration of labour.

Transparency and publicity

14. In order to promote greater transparency in the presentation of candidates by assemblies of political parties, action should be taken to ensure that all party members are informed of the convocation and holding of the general assemblies of political parties. The Electoral Reform Commission could examine whether compliance in convoking and holding the assemblies of political parties might be verified as a matter of routine by the National Registry or whether it would be useful to amend the law to enable the Supreme Electoral Tribunal to supervise effectively the convocation and holding of assemblies of political parties, as well as their results.

15. In order to ensure transparency in the financing of election campaigns and that voter preference is not supplanted by spending power, the Parties consider that the Supreme Electoral Tribunal should have the power to set a ceiling for campaign spending by each presidential candidate in the mass media. It is recommended that consideration be given to the possibility of providing and facilitating the use of media time and space free of charge for all parties on an equal footing.

16. Parties and candidates should be compelled to make available such accounting records and reports as may be required from them by the National Registry in order to verify that their sources of funding are lawful. The calculation of campaign spending should include, at market prices, any advertising donated to the parties during the election campaign.

17. It would also be useful to promote a reform of the Penal Code to characterize the acceptance of illicit campaign funding as a crime, establishing that anyone who receives or authorizes the receipt of such contributions for the funding of political organizations or election campaigns is guilty of such a crime. The reform would establish the corresponding criminal penalties.

Public information campaigns

18. The increasingly active participation of citizens in the electoral process is a guarantee of the legitimacy and representativeness of the elected authorities. This objective would be more easily achieved if ongoing campaigns to educate, motivate and inform citizens were carried out. The Electoral Reform Commission would examine the possibility of conducting information campaigns to:

(a) Explain the importance of the right of citizens to vote and to be elected;

(b) Encourage and promote the timely preparation of electoral rolls;

(c) Provide information on how to vote, the documents to be presented at voting tables and centres and the hours during which voting takes place;

(d) Provide information on how to organize civic committees or join a political party.

19. In order to ensure that these campaigns are effective, account would have to be taken of the importance of using the various languages of indigenous peoples, as agreed in the Agreement on Identity and Rights of Indigenous Peoples.

Institution-building

20. In order to strengthen the electoral regime, the Parties agree to request the Electoral Reform Commission to design a programme for modernizing the National Registry. Such a programme, with the corresponding activities to train and professionalize the personnel involved, would permit the automation of data and their incorporation into coordinated networks so that electoral rolls could be effectively cross-checked, maintained and updated.

21. Bearing in mind the role of the Supreme Electoral Tribunal in the electoral reform proposed in this Agreement, the Parties consider that it would be helpful if the Electoral Reform Commission were to analyse what resources the Tribunal requires in order to function efficiently, particularly in order to perform its ongoing functions in the areas of voter registration, preparation of electoral rolls and public information campaigns. The executive branch, for its part, will review the Electoral Reform Commission's analysis of such resources and take whatever action it can to strengthen the operations of the Supreme Electoral Tribunal.

III. FINAL PROVISIONS

First. This Agreement forms part of the Agreement on a Firm and Lasting Peace and shall enter in force on the day when the latter is signed.

Second. In accordance with the Framework Agreement, the Secretary-General of the United Nations is requested to verify compliance with this Agreement.

Third. This Agreement shall be widely publicized.

Stockholm, 7 December 1996.

For the Government of Guatemala:

(Signed) Gustavo PORRAS CASTEJÓN

(Signed) Otto PÉREZ MOLINA
Brigadier-General

(Signed) Raquel ZELAYA ROSALES

(Signed) Richard AITKENHEAD CASTILLO

For the Unidad Revolucionaria Nacional Guatemalteca:

(Signed) Carlos GONZALES

(Signed) Commander Rolando MORÁN

(Signed) Commander Pablo MONSANTO

(Signed) Jorge ROSAL

For the United Nations:

(Signed) Jean ARNAULT

ANNEX II

[Original: Spanish]

Agreement on the Basis for the Legal Integration of the Unidad Revolucionaria Nacional Guatemalteca

Whereas the internal armed conflict that Guatemala has experienced for over three decades resulted from the closing of political opportunities for democratic expression and participation and from the adoption of measures of political repression against individuals and organizations linked or identified with the Government overthrown in 1954,

Whereas, given a situation where there is social and economic injustice, including discriminatory practices against indigenous peoples, and the systematic denial of individual and collective rights and safeguards, the peoples concerned have the right to seek the necessary democratic change,

Whereas the package of peace agreements signed by the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG) constitute a new and promising framework for the democratic life of the country, based on new forms of political participation and a new institutional framework,

Whereas building a democratic, multi-ethnic, multicultural and multilingual nation, with social justice, calls for equitable participation by all citizens, both men and women, on the basis of complete political and ideological pluralism,

Recognizing that Guatemalan society needs to develop conditions conducive to reconciliation and lasting governability,

Whereas completion of the negotiating process with a view to finding a political solution to the internal armed conflict calls for the establishment of a set of measures to integrate URNG as a lawful body,

Recognizing the determination of URNG to convert its political-military forces into a duly authorized political party that will operate within the Guatemalan legal system,

Recognizing that the legal integration of members of URNG, in full exercise of their constitutional rights and duties and in security and dignity, will contribute to the democratic process and its consolidation, the restoration of the social fabric in Guatemala, reconciliation and the establishment of a firm and lasting peace,

Calling on the State as a whole, all sectors of Guatemalan society and the international community to assist in and contribute to the process of integrating URNG,

The Government of Guatemala and URNG (hereinafter referred to as "the Parties") have agreed as follows:

/...

I. DEFINITIONS

1. The "legal integration of URNG" means the process whereby URNG members are to be integrated into political, economic, social and cultural life in a context of dignity, security, legal safeguards and the full exercise of their civil rights and duties.

2. The process of integrating members of URNG shall begin with the signing of the Agreement on a Firm and Lasting Peace and shall lead to their lasting integration into the civil life of the country. The integration process shall be divided into two phases: an initial integration phase, which shall last one calendar year starting on D+60, and a subsequent, definitive integration phase, for the medium term, in which the support required to consolidate the process will be provided.

Initial integration phase

3. There shall be two separate procedures during the initial integration phase, which shall be applied according to the status of the URNG members concerned:

(a) The procedure applicable to members of the various guerrilla fronts and other combatants, according to the definitions set out in paragraph 20 of the Agreement on the Definitive Ceasefire. Such procedure shall be divided into two stages:

(i) The demobilization stage, which shall last two months and means the ending of URNG military structures at the agreed assembly points. This stage shall include services such as the provision of temporary documentation and vocational training and guidance, with a view to facilitating the subsequent integration of demobilized combatants. The verification authority shall transmit to the Special Integration Commission a definitive list of demobilized combatants drawn up at assembly points no later than D+30;

(ii) The reinsertion stage, which shall begin upon completion of the demobilization process (D+60) and end one year later. Its basic purpose is to provide emergency assistance to former combatants and create conditions conducive to a smooth transition to the definitive integration phase. The minimum requirements to be met during such phase are (but shall not be limited to):

- Provision of inputs and services appropriate to an emergency situation;

- Beginning of training and employment programmes;

- Establishment of financial machinery to obtain the resources needed to launch the definitive integration phase;

- Identification of government social and economic programmes for the population as a whole that can provide assistance to former combatants and to members of URNG internal structures who are to be integrated during the definitive integration phase, on terms similar to those for other beneficiaries of such programmes;

(b) The procedure applicable to other URNG members, members of the internal political structure and Guatemalans forming part of the international support structure who are not subject to the demobilization process. Provision shall be made for them to receive the necessary support for their legal integration, and, based on their individual circumstances, other services to facilitate their integration into productive life. URNG shall transmit to the verification authority by D-15 at the latest a list of non-demobilized members who are to be beneficiaries of this procedure. The authority shall, in turn, transmit such list to the Special Integration Commission once it has been set up.

4. The Government of Guatemala and URNG pledge to take the necessary steps to ensure completion of the initial integration stage, and they request assistance from the international community to that end. For the execution of the relevant programme, subprogrammes and projects, a Special Integration Commission shall be set up, with the participation of the Government of Guatemala, URNG and, in a consultative capacity, donor and cooperative countries and agencies. To ensure full participation by beneficiaries in the design, execution and evaluation of projects and programmes concerning them, an Integration Foundation shall be set up which shall be directly involved in the various stages of the integration process.

Definitive integration phase

5. One year after D+60, beneficiaries of both procedures shall become eligible for longer-term services provided by the Government, including financial, technical, legal and employment assistance and assistance in the areas of education, training and production projects with a view to ensuring their lasting integration into the economic, social and cultural life of the country, on the same terms as the rest of the Guatemalan population. Additional specific projects for URNG members shall be the responsibility of the Integration Foundation. The Parties call on international cooperation to provide technical and financial support to ensure the success of the definitive integration phase.

Integration programme

6. "URNG integration programme" means the package of legal, political, economic and security measures and provisions, and also subprogrammes and projects, which are to ensure the success of the integration process. This programme shall be carried out in accordance with the objectives and principles set out below.

II. OBJECTIVES AND PRINCIPLES

Objectives

7. The integration programme shall seek to create the best possible conditions for the integration of URNG members into the legal, political, social, economic and cultural life of the country, in security and dignity.

8. The initial integration phase shall seek to provide URNG members, particularly former combatants, with the necessary means to embark upon their lasting integration by means of productive, educational, training and other activities. Appropriate use of such means shall be the responsibility of the beneficiaries.

9. The definitive integration phase shall seek to provide URNG members, particularly former combatants, with the necessary support to consolidate their integration. The integration programme shall also seek to contribute to the development of the country and to national harmony.

Principles

10. The Government of Guatemala undertakes to guarantee the political, legal and security conditions and promote the social and economic conditions necessary for the implementation of the integration programme.

11. URNG undertakes to do everything possible to ensure the successful integration of all of its members into the social, economic and cultural life of the country through the implementation of the programme.

12. The programme shall treat former combatants, women, young people and disabled persons as sectors requiring specific priority attention.

13. In view of the diverse personal circumstances of the URNG members who are being integrated into lawful life, the programme shall be implemented in a flexible manner appropriate to their needs.

14. In order to ensure such flexibility, subprogrammes and projects designed, managed and implemented with the full participation of beneficiaries shall be promoted, in accordance with the institutional arrangements set out in this Agreement.

15. Whenever relevant, and particularly in the case of production projects, efforts shall be made to ensure that the programme has a positive impact on the communities in which it is carried out and that it is designed and implemented in consultation with them.

III. ELEMENTS OF THE INTEGRATION PROGRAMME

16. The URNG integration programme shall consist of the following elements:

A. Legal area

National Reconciliation Act

17. The Government shall sponsor in the Congress of the Republic a draft National Reconciliation Act whose object shall be, in accordance with the spirit and content of the Peace Agreements, to promote a culture of harmony and mutual respect that will eliminate any form of revenge or vengeance, while safeguarding the fundamental rights of the victims, as prerequisites for a firm and lasting peace.

The right to know the truth

18. In recognition of the inalienable right of any society to know the truth, the National Reconciliation Act shall instruct the Commission to Clarify Past Human Rights Violations and Acts of Violence that Have Caused the Guatemalan Population to Suffer (the "Clarification Commission") to devise means whereby the truth about the period of the internal armed conflict may be known and acknowledged, in order to avoid a repetition of such events. The Act shall require all State bodies and entities to provide the Commission with the support necessary for the accomplishment of its tasks, in accordance with the purposes specified in the relevant agreement.

The right of redress

19. On the principle that any violation of human rights entitles the victim to obtain redress and imposes on the State the duty to make reparation, the Act shall assign to a State body responsibility for implementing a public policy of compensation for and/or assistance to the victims of human rights violations. The body in question shall take into consideration the recommendations to be formulated in that regard by the Clarification Commission.

Extinction of criminal liability

20. With a view to promoting national reconciliation, without neglecting the need to combat impunity, the National Reconciliation Act shall contain a clause allowing URNG members to be integrated into lawful life.

Political crimes

21. In relation to the aforesaid clause, the National Reconciliation Act shall declare the extinction of criminal liability for political crimes committed in the internal armed conflict up to the date on which the Act enters into force and shall cover persons who perpetrated, abetted or were accessories to crimes against State security, public institutions and the public administration, as defined in articles 359, 360, 367, 368, 375, 381, 385 to 399, 408 to 410 and 414 to 416 of the Penal Code and in Title VII of the Arms and Munitions Act. In such cases, the Public Prosecutor's Office shall refrain from exercising a right of action and the judicial authority shall dismiss proceedings.

Related common crimes

22. Also in relation to the clause mentioned in paragraph 20, the National Reconciliation Act shall extinguish criminal liability for related common crimes committed in the armed conflict, such crimes being defined as those which are directly, objectively, intentionally and causally related to the commission of the political crimes referred to in the preceding paragraph and which cannot be shown to be motivated by personal goals. The common crimes which are defined as related to the political crimes mentioned in the preceding paragraph are those described in articles 214 to 216, 278, 279, 282 to 285, 287 to 289, 292 to 295, 321, 325, 330, 333, 337 to 339, 400 to 402, 404, 406 and 407 of the Penal Code.

Other extinctions of criminal liability

23. In respect of persons who were involved in the internal armed conflict owing to institutional mandates, the National Reconciliation Act shall contain specific provisions equivalent to those previously mentioned, in that they shall extinguish criminal liability for common crimes perpetrated with the aim of preventing, thwarting, suppressing or punishing the commission of political crimes and related common crimes, where such crimes were directly, objectively, intentionally and causally related to that aim, unless it is demonstrated that there is no relationship between the criminal act and the stated aim.

Restrictions

24. The provisions in the National Reconciliation Act which extinguish criminal liability shall under no circumstances extend to crimes which, under domestic law or the international treaties ratified or signed by Guatemala, are imprescriptible or are not subject to an extinction of criminal liability.

Proceedings

25. The judicial proceedings for related common crimes shall be consistent with guarantees of due process, shall be expeditious and adversarial, and shall comprise the following stages:

(i) If the Public Prosecutor's Office or a judicial authority is to try one of the crimes referred to in paragraphs 22 and 23, it shall transfer the case immediately to the appeals court division having jurisdiction in the matter. The court shall notify the aggrieved person, defined as such in article 117 of the Code of Criminal Procedure, the Public Prosecutor's Office and the defendant, ordering them to appear within the same period of 10 working days.

(ii) After this period has elapsed, the court shall have five working days in which to issue a reasoned order declaring the extinction valid or invalid and, where appropriate, dismissing the proceedings. If, after the period for notification of the parties has elapsed, the court feels that it needs additional information in order to reach a decision, it shall convene an immediate oral hearing with the sole participation of the parties, at which it shall receive relevant evidence, hear statements by the parties or their lawyers and,

immediately thereafter, issue a reasoned order declaring the extinction valid or invalid and, where appropriate, dismissing the proceedings. The oral hearing shall be held within 10 working days after the end of the period for notification of the parties. At least three days shall elapse between the summons and the hearing.

(iii) An appeal against the court's order shall be admissible only if it is submitted in writing, alleging grievances, within three days from the date of the last notification, by any of the parties having a legitimate interest in the case. If the appeal is declared admissible, the case shall be referred immediately to the amparo and preliminary judgements division of the Supreme Court, which shall decide within one week, without further hearings, to uphold, revoke or amend the contested order. The Supreme Court's decision shall not be subject to any form of appeal.

26. No coercive measures, such as committal orders, pretrial detention, measures in lieu of pretrial detention, remand or arrest shall be ordered during the proceedings. The alleged perpetrators, accused persons or defendants may be represented during the proceedings by their lawyers.

27. Upon conclusion of the proceedings, a certified copy of the entire case record shall be transmitted to the Clarification Commission.

Demobilization

28. In order to foster compliance with the demobilization of URNG members stipulated in the Agreement on the Definitive Ceasefire, the National Reconciliation Act shall establish the complete extinction of criminal liability for persons who perpetrated, abetted or were accessories to the crimes defined in articles 398, 399, 402 and 407 of the Penal Code and articles 87, 88 and 91 to 97, paragraph (c), of the Arms and Munitions Act and who committed such acts up to the date on which their demobilization was completed in accordance with the terms, conditions and time-limits stipulated in the aforesaid Agreement. The date on which that demobilization was completed shall be communicated officially by the United Nations verification authority.

Documentation

29. As a result of the conditions in which the internal armed conflict took place, many URNG members have no personal documentation. This limits the exercise of their civil rights and duties. To facilitate an immediate solution to this problem, the Government undertakes to sponsor in the Congress of the Republic the corresponding amendments to the Act on the Personal Documentation of the Population Uprooted by the Internal Armed Conflict (Decree 73-95). Such amendments, in addition to solving the documentation problems of uprooted population groups, shall resolve the lack of personal documentation of URNG members. The Congress shall be asked to consider and resolve this issue in the two months following the signing of the Agreement on a Firm and Lasting Peace.

Temporary documentation

30. Pending completion of the procedures required for the issue of permanent personal documentation, the verification authority shall be asked to issue temporary documentation for demobilized combatants and other beneficiaries of the Agreement on the Basis for the Legal Integration of URNG.

Other documentation

31. The procedures for naturalization of children born abroad to Guatemalans belonging to URNG shall be expedited.

Other legal provisions

32. The Government undertakes to sponsor in the Congress such legal amendments as are needed to permit full compliance with this Agreement.

B. Political area

33. The Parties undertake to promote a climate of tolerance, openness and plurality which will foster reconciliation and understanding.

34. After the signing of the Agreement on a Firm and Lasting Peace, URNG members, like all other citizens, shall enjoy the full exercise of all their fundamental rights and freedoms (including freedom of organization, movement and residence and the right of political participation) and shall pledge to fulfil all their duties and obligations.

35. The Government considers that the transformation of URNG into a political party duly accredited with the corresponding bodies is a contribution to the strengthening of the rule of law and to the consolidation of a pluralist democracy.

C. Security area

36. The Government undertakes to adopt administrative measures to guarantee the necessary conditions for the effective exercise of the civil rights of URNG members, particularly the rights to life, security and physical integrity. Respect for this undertaking shall be subject to special verification by the international verification authority, which may arrange for URNG members to be accompanied temporarily when the need arises.

37. The Government shall pay particular attention to any complaint of acts or incidents that threaten the safety of URNG members.

D. Socio-economic area

38. In the socio-economic area, the integration programme shall cover the following spheres:

Vocational guidance and training

39. URNG members shall receive vocational guidance and assistance during the demobilization phase, and subsequently if necessary. Once agreement is reached on the kind of economic activity in which they are to engage, they shall be eligible for specific programmes of technical and vocational training.

Education

40. The Government pledges to take the necessary administrative action for the recognition, equivalency rating, validation and legalization of formal and non-formal education completed by URNG members, using appropriate evaluation and equivalency rating mechanisms.

41. During the initial integration period, specific literacy, post-literacy and intensive technical training subprogrammes shall be launched.

42. As part of integration subprogrammes, URNG members may, with the Government's cooperation benefit from grants, scholarships or any other mechanism to help them continue their education.

43. The Parties request international cooperation in implementing these provisions on education, to which end the technical recommendations to be made by the Integration Foundation shall be taken into account.

Housing

44. During the initial integration stage, the Special Integration Commission shall promote appropriate housing conditions for URNG members who require it in order to carry out the corresponding subprogrammes and projects, with special emphasis on the needs of demobilized combatants. Before the end of the initial integration phase, the Special Commission shall pay special attention to guaranteeing access to housing for demobilized URNG members who settle in rural areas and to providing proper credit facilities for those settling in urban areas.

Health

45. In the demobilization phase, combatants gathered at assembly points shall receive a medical check-up. The necessary action will be taken to treat cases identified by the check-up either in the camps or locally. The Special Commission will ensure that patients who require further treatment are referred to the corresponding services. This subprogramme shall be carried out in cooperation and consultation with the URNG medical team.

Economic and production projects

46. The Parties agree that the integration of URNG members into civilian life requires that they participate actively in production on a basis of dignity, development and legality. To that end, the Parties agree that the Special Commission and the Foundation shall support projects for expanding production

and generating employment in urban and rural areas which contribute to the fulfilment of this Agreement.

47. The orientation of such projects shall be in keeping with the provisions of the Agreement on Social and Economic Aspects and the Agrarian Situation. Projects for the expansion of production shall be implemented in keeping with the plans and needs of the communities in which they are to be carried out and in consultation with them.

48. The Government, according to its financial capacities and the technical and financial support provided by international cooperation, shall provide the necessary start-up resources for these projects. It shall facilitate access to means of production, technical advice, credit and marketing channels on the same terms as for other similar projects. It also pledges to take the necessary action to facilitate and legally recognize the forms of organization required to promote these economic activities. Programmes involving individually- or collectively-owned land shall be processed through the Land Trust Fund, on the same terms as other applicants.

E. Cultural area

49. Since a large proportion of URNG members are of Mayan origin, the Parties agree to stipulate that the integration programme must be implemented in conformity with the Agreement on Identity and Rights of Indigenous Peoples.

F. Special subprogrammes

Subprogramme for disabled persons

50. As a result of the internal armed conflict, a sector of the population is disabled and, as one of the most vulnerable and most severely affected groups, requires special priority attention under the programme envisaged in this Agreement.

51. The integration of this group is a more complex matter, because of the personal and social impact of their disability. As a result, specific projects will have to provide proper professional care for their rehabilitation and access to education and training so that they can be genuinely integrated into social and productive life in decent conditions.

Legal assistance

52. The integration programme shall provide for URNG members to receive legal assistance in dealing with the legal aspects of their integration.

Family reunification

53. The Parties agree to take all necessary measures to enable URNG members to be reunited with their families. The Government undertakes to extend all necessary facilities to that end.

54. The Government undertakes to cooperate with the Clarification Commission on matters relating to the issue of detained and disappeared URNG members and to contribute whatever resources, relevant measures and information might lead to the recovery of the remains of URNG members, including URNG combatants who died in combat.

IV. INSTITUTIONAL ARRANGEMENTS

Initial integration

55. This phase shall be financed with resources from the Guatemalan Government and contributions from the international community.

56. The Parties agree to create a Special Integration Commission, which shall consist of an equal number of representatives from the Government and URNG and, in a consultative capacity, representatives from donor and cooperating countries and international cooperation agencies.

57. The Commission shall be set up within 15 days following the signing of the Agreement on a Firm and Lasting Peace and the Government shall issue the corresponding government decree to that effect.

58. Once it is set up, the Commission shall be responsible for coordinating the integration programme, for taking decisions on the allocation of funding to its contingent subprogrammes and projects and for raising technical and financial resources. The Parties agree that the programme's execution shall conform to the objectives and principles of this Agreement.

59. In order to perform its functions, the Special Commission shall, by means of specific rules to be adopted no later than 30 days after it is set up, organize its responsibilities in the areas of coordination, financial management and decision-making with respect to subprogrammes and projects arising out of this Agreement. The Special Commission shall likewise identify in consultation with donor and cooperating countries and agencies, appropriate financial mechanisms, including the possibility of trust funds, to facilitate the flexible and effective implementation of the integration programme.

Definitive integration

60. Additional specific projects for URNG members shall be the responsibility of the Integration Foundation. URNG undertakes to set up that Foundation in the 90 days following the signing of the Agreement on a Firm and Lasting Peace. The Government undertakes to expedite the procedures for setting up the Foundation. The Parties call on international cooperation to provide technical and financial support to ensure the success of the definitive integration phase.

V. FINAL PROVISIONS

First. This Agreement forms part of the Agreement on a Firm and Lasting Peace and shall enter into force when the latter is signed, with the exception of any specific provisions which may have entered into force prior to that date.

Second. In accordance with the Framework Agreement, the Parties request the Secretary-General of the United Nations to verify compliance with this Agreement.

Third. This Agreement shall be widely publicized.

Madrid, 12 December 1996.

For the Government of Guatemala:

(Signed) Gustavo PORRAS CASTEJÓN

(Signed) Otto PÉREZ MOLINA
Brigadier-General

(Signed) Richard AITKENHEAD CASTILLO

(Signed) Raquel ZELAYA ROSALES

For the Unidad Revolucionaria Nacional Guatemalteca:

(Signed) Commander Pablo MONSANTO

(Signed) Commander Rolando MORÁN

(Signed) Carlos GONZALES

(Signed) Jorge ROSAL

For the United Nations:

(Signed) Jean ARNAULT